

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

KRUEGER INTERNATIONAL INC. and
PRO-CORD S.p.A.

Plaintiffs,

v.

Case No. 06-C-653

HUMANSIZE CORPORATION,

Defendant.

ORDER GRANTING MOTION FOR STAY

Defendant Humansize Corporation has filed a motion seeking a stay of the above matter on the ground that the Patent and Trademark Office (PTO) has granted Humansize's request for a re-examination of the patent in-suit. Humansize had previously moved for amendment of the scheduling order on the ground that the plaintiffs failed to adequately produce documents requested in the discovery process in a timely manner. Plaintiffs Krueger International, Inc. and Pro-Cord S.p.A., collectively KI, have filed a response in which they indicate they do not oppose the motion to stay proceedings pending the re-examination of the patent in-suit. However, KI vigorously denies Humansize's contentions that they previously failed to respond to Humansize's discovery requests.

The motion for a stay will be granted. The parties are in agreement that the re-examination by the PTO of the patent in-suit may significantly affect the action. According to Humansize, the PTO has determined that a substantial new question of patentability exists with respect to Independent Claim 7 of the patent in-suit, which is the only claim plaintiffs are asserting against

Humanscale. Thus, it is clear that the re-examination could result in either a modification or a complete cancellation of the claim. Proceeding with a claim construction process while the terms at issue are subject to modification or even cancellation would be a waste of the resources of both of the parties and the court. Accordingly, the stay will be granted. The clerk is instructed to administratively close the file until such time as the re-examination process is complete. KI is instructed to notify the court immediately upon completion of the process. Humanscale's motions to modify the scheduling order on the ground that KI has failed to respond to their discovery requests in a timely manner will be denied as moot.

SO ORDERED this 15th day of December, 2006.

s/ William C. Griesbach
William C. Griesbach
United States District Judge